

**STATE OF NEW MEXICO
BEFORE THE SECRETARY OF THE ENVIRONMENT**

**IN THE MATTER OF THE APPLICATION
OF ROPER CONSTRUCTION INC.
FOR AN AIR QUALITY PERMIT
NO. 9295, ALTO CONCRETE BATCH PLANT**

AQB 21-57(P)

SCHEDULING ORDER

The Office of Public Facilitation shall hold a public hearing in the above matter as authorized by the Notice of Public Hearing Determination filed on November 2, 2021, and the authority granted by the Appointment of Hearing Officer as outlined in 20.1.4 NMAC. Following the December 1, 2021, prehearing teleconference attended by all the parties, and being fully advised of the Governor Executive Orders and applicable public health orders.

IT IS HEREBY ORDERED:

1. The public hearing in this matter shall be held virtually and in a physical location in Lincoln County, N.M. to commence at 9:00 am on February 9, 2022, and may continue through February 11, 2022, as necessary.
2. Evidence of a technical nature as defined by 20.1.4.7 NMAC shall be prefiled with the Hearing Clerk and served on all other parties on or before January 19, 2022, in full-written format with clearly marked exhibits ("NOI"). Rebuttal NOIs shall be prefiled with the Hearing Clerk and served on all other parties on or before February 2, 2022.

Technical evidence as defined by 20.1.4.7.A.22 NMAC is scientific, engineering, economic or other specialized evidence or testimony. It does not mean legal argument, general comments, or statements of policy. Under 20.1.4.300.B.1.a NMAC, a timely filed NOI shall:

- (i) identify the person filing the statement;
- (ii) state whether the person filing the statement supports or opposes the Draft Permit, Application, or Petition, or in the case of the Division, the Division's recommended decision to approve, deny, or approve with conditions the Draft Permit, Application, or Petition;
- (iii) identify each witness, including name, address, affiliation(s), and educational and work background;
- (iv) estimate the length of the direct testimony of each witness;
- (v) identify all exhibits which are part of the Record Proper and, for exhibits not part of the Record Proper, attach a copy;
- (vi) list or make available all technical materials relied upon by each witness in making statement of technical of fact or opinion contained in his or her direct testimony; and
- (vii) attach a summary of the testimony of each witness, stating any opinion(s) to be offered by such witness, and an explanation of the basis for such opinion(s).

Failure to file a timely and complete NOI will preclude a person from presenting that technical evidence or testimony sought to be offered.

3. General (non-technical) comment will be taken in writing and under oath at the public hearing. Hearing participants are encouraged to submit their comments in writing (no length limit) to the Hearing Clerk (Madai.Corral@state.nm.us) before or during the hearing. Verbal public comment will be accepted on February 9, 2022, at 12 pm and 5 pm, and on subsequent days (as necessary)

at 9 am, 12 pm and 5 pm. Public comment is limited to five (5) minutes per individual.

4. Prehearing motions (including motions in limine) shall be filed on or before January 19, 2022, corresponding responses filed on or before January 28, 2022, and the reply filed on or before February 2, 2022. The Hearing Officer will rule on the motion by order filed on or before February 7, 2022 if practicable.
5. The verbatim transcript taken by the court-reporter shall be the official record of the public hearing, a copy of which will be maintained by the Office of Public Facilitation. The hearing will also be recorded live via the WebEx virtual platform. The WebEx recording link will be available from the Hearing Clerk upon request free of charge.
6. Witnesses shall provide a summary of their prefiled written testimony and rebuttal testimony for the public at the hearing (demonstrative exhibits may be helpful to the public). Witnesses are encouraged to present their technical testimony to the public in plain-language and limit their summary to fifteen (15) minutes (in no event will be provided more than thirty (30) minutes).
7. The Bureau shall prepare and send the necessary public notice for the hearing in English and in Spanish. The notice shall be published no later than 30-days prior to the hearing pursuant to 20.1.4.200 NMAC.
8. The Bureau shall provide the means to fully participate in the public hearing for individuals who speak Spanish and for the hearing-impaired.
9. The Administrative Record shall be forwarded to the Hearing Clerk no later than the first day of the hearing.

Gregory
Chakalian

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Chakalian
Date: 2021.12.02 07:14:27
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Gregory Chakalian, Hearing Officer

Certificate of Service

I hereby certify that on December 2, 2021, a copy of the Scheduling Order was sent via electronic mail to the persons listed below (hard copy will be mailed upon request):

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